

3. The Court may exercise subject matter jurisdiction pursuant to 28 U.S.C. §1332.

Whereas the Court shall have original jurisdiction over all civil actions where the matter in

controversary exceeds the sum of value of \$75,000.00, exclusive in interest and costs and is between citizens of different states.

4. The plaintiff, David Kennedy, is a resident of Maine. The defendant, 150 Rochester Hill LLC, is a New Hampshire entity.

5. Venue is proper in the State of New Hampshire as the acts and omissions forming the founds of the Plaintiff's claim occurred in the state of New Hampshire.

### **III. Causes of Action:**

#### **COUNT I (Negligence)**

6. The plaintiff, David Kennedy, hereby repeats and incorporates all of the foregoing paragraphs of this Complaint herein.

7. On March 5, 2020, the plaintiff, David Kennedy, was a "Tenant" within the definition of RSA 540-A:1, II of the defendant, 150 Rochester Hill Road, LLC ("Rochester Hill") and Rochester Hill qualified as a "Landlord" under RSA 541-A:1, relating to an apartment unit in a multi-apartment building owned by Rochester Hill and located at 150 Rochester Hill Road in Rochester, New Hampshire (hereinafter referred to as "the Rochester Hill Apartment Complex.").

8. On March 5, 2020, while descending an internal set of stairs in the common area of his apartment at the Rochester Hill Apartment Complex, a stair which David Kennedy stepped on failed and collapsed causing Mr. Kennedy to fall.

9. The defendant, Rochester Hill, had duties to keep and maintain stairs in the Rochester Hill Apartment Complex structurally sound.

10. The defendant, Rochester Hill, failed in its duty to keep and maintain the stair

which Mr. Kennedy stepped on which failed and collapsed structurally sound.

11. The defendant, Rochester Hill, also had duties to maintain, monitor, inspect and repair all areas of travel and access and egress, including the stairs, at the Rochester Hill Apartment Complex and a duty to warn its tenants, including Mr. David Kennedy, of any dangerous and hazardous conditions at the Rochester Hill Apartment Complex.

12. Additionally, the defendant violated the provisions of RSA:48-A 14, VII, which is generally consistent with RSA: 155-A:1, and the defendant otherwise violated the International Building Code as well as the Life Safety Code and other such codes as a result of the defendant's breach of the duty to maintain its stairs at the Rochester Hill Apartment Complex in a structurally sound manner and status and in particular the stair which failed and collapsed causing Mr. Kennedy to fall and severely injure himself on March 5, 2020.

13. The defendant, Rochester Hill, failed in the performance of and breached all of the aforesaid duties and as a direct and proximate cause and result of the defendant, Rochester Hill's, breaches of said duties, the plaintiff, Mr. David Kennedy, was caused to suffer severe bodily injuries, and suffered and will continue to suffer, damages and losses, including medical bills, past, present and future, pain and suffering, past, present, and future, mental anguish, permanent impairment, scarring and disfigurement, and loss of enjoyment of life as well as having to go through and be involved in medical evaluations and treatment, including, but not limited to, two (2) separate surgical interventions as well as significant post-surgical medical evaluation treatment and rehabilitation, and the plaintiff is subject to further damages and losses of all of the same. The plaintiff hereby requests recovery of full and complete compensatory damages plus interest and costs.

**IV. Conclusion:**

WHEREFORE, the plaintiff, David Kennedy, respectfully requests that this Honorable Court:

- A. Enter judgement consistent with the Court's determination on all claims and with the determination for full and fair compensation in favor of the plaintiff as allowed in law and equity; and
- B. Grant such further relief as justice and equity require.

RESPECTFULLY SUBMITTED

David Kennedy

By his attorneys:

Boynton, Waldron, Doleac, Woodman & Scott

Dated: February 1, 2022

/s/ Christopher E. Grant

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